

James Jolly Clark
10/811,015

Response to Office Action Mailed March 18, 2008

A. Claims In The Case

Claims 21, 26, 34, and 39 have been rejected. Claims 22-25, 27-33, 35-38, and 40-46 have been withdrawn. Claims 21-46 are pending in the case.

B. The Claims Are Not Anticipated By Moore Pursuant To 35 U.S.C. § 102

The Examiner rejected claims 21, 26, 34, and 39 as being anticipated by US 2004/0039489 to Moore et al. (“Moore”). Applicant respectfully disagrees with these rejections.

The standard for “anticipation” is one of fairly strict identity. A claim can only be anticipated if each and every element set forth in the claims is found to be either expressly or inherently described in the cited art. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 728, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP §2131.

Claim 21 describes a combination of features including but not limited to the following features:

wherein the receiver is configured to receive community irrigation instructions generated for the region and send the community irrigation instructions to the computer system, wherein the community irrigation instructions override the programmed irrigation schedule

Applicant submits that these features, in combination with the other features of Applicant’s claims, do not appear to be taught or suggested by Moore.

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Applicant's claims are directed to an irrigation system that includes a receiver to receive community irrigation instructions. As noted in Applicant's specification, community irrigation instructions

"may include community watering restrictions for purposes including water conservation (e.g., during droughts) and emergency restrictions (e.g., related to maintenance or repair of utilities). In some embodiments, community irrigation instructions received by a computer system may provide an override that requires a termination of irrigation or a reduction in frequency and/or duration of irrigation. In certain embodiments, community irrigation instructions received by a computer system may initiate irrigation under conditions including, but not limited, to wildfire hazard conditions."

(Specification, p. 9, line 28 – p. 10, line 4)

Applicant submits that Moore does not appear to teach or suggest the use of "community instructions" to control an irrigation system.

The irrigation system of Moore appears to be controlled using a combination of evapotranspiration and weather data. The collected information is used to alter irrigation schedules based on the "needs of the landscape." For example, Moore teaches:

The term "improve the watering schedule" as used herein means to alter the watering schedule as necessitated by the needs of the landscape. For example, during a rainy period, the watering schedule is improved by irrigating less. Conversely, during a dry period, the watering schedule is improved by irrigating more.

(Moore, paragraph [0043])

The Office Action relies on the above section for teaching the use of community instructions. Applicant submits, however, that Moore does not appear to be teaching the use of community instructions. In fact, it could be argued that Moore teaches the opposite. For example, Moore appears to teach that during a dry period, the system would increase the amount of watering. In contrast, in Applicant's claimed system, community instructions are used during

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a dry period to stop watering (not increase watering) due to the potential for low water reserves caused by a drought.

The Office Action also sites paragraph [0132] of Moore, which states:

Those having ordinary skill in the relevant art will appreciate the advantages provided by the features of the present invention. For example, the present system provides a simple, low cost means to get weather data to irrigation controllers to improve irrigation. Weather data can be used to calculate evapotranspiration, prevent watering when it is raining, cancel watering in freezing conditions and interrupt irrigation in high wind conditions. This will save water and improve the health of the landscape. Moreover, many water districts have implemented water conservation programs. Available water resources are being stretched, as is the delivery infrastructure. Landscape water use consumes over half the culinary supplies in some areas of the world. Some water districts have billing structures that create a monthly water allowance based on evapotranspiration. Embodiments of the present invention can improve the service level a water district provides. The embodiments of the present invention can be implemented on a local, regional or state level. The signal providing weather data may be broadcasted with the same codes to all controller interfaces within a weather region.

(Moore, paragraph [0132])

Applicant submits, however, that this section does not appear to teach “community instructions”, but merely discusses the need for communities to control use of water for landscape irrigation. Applicant submits that Moore neither teaches nor suggests the use of community instructions for control of irrigation systems. In fact, if anything, Moore appears to teach the opposite – relying on the increased effectiveness of using a combination of weather data and evapotranspiration information rather than a, broad, community wide restriction to control water consumption.

Claim 34 includes, but is not limited to, the feature of:

receiving community irrigation instructions generated for the region;

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overriding the programmed irrigation schedule based on the community irrigation instructions

Applicant submits that, for at least the same reasons recited above, Claim 34 is allowable over Moore.

C. **Summary**

Based on the above, Applicant submits that all claims are now in condition for allowance. Favorable reconsideration is respectfully requested.

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Applicant respectfully requests a one-month extension of time to respond to the Office Action dated March 18, 2008. A fee authorization form in the amount of \$60.00 is enclosed for the extension of time fee. If any further extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5853-00503/EBM

Respectfully submitted,



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